**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 2835 OF 2004**

Shri Shaikh Mohammed Iqbal
Mohammad Ishaque (s.M. Iqbal) ... Petitioner

V/s

The Collector of Pune District
& ors. ... Respondents

Mr. A.V. Anturkar for the petitioner.

Mr. A.H. Palekar, A.G.P. for the respondent No.1 & 22.

Mr. Prashant Naik for the respondent No.3.

Mr. Sanjay Khirsagar for the respondent No.4.

**CORAM: S.U. KAMDAR, J.**

**DATED: 22ND NOV., 2005**

**ORAL JUDGMENT**:

1. In the present petition, the sole question is raised pertaining to the interpretation of bye-laws 29(1) and 29(2) of the respondent No.3 Bank. The relevant bye-law reads as under :-

> **"Bye-law No.29:** The Board of Directors shall consist of 15 elected Directors as under:
>
> (1) 10 Directors to be elected from amongst the

members of the Bank residing within the radius of 25 kms. from the Head Quarter of the Bank.

(2) One Director to be elected from amongst the members of the Bank residing outside the Head Quarter beyond 25 kms."

The learned counsel for the petitioner has contended that bye-laws No.29(1) and 29(2) inter-alia divide the voters' constituency in two parts i.e. voters who are residing within 25 kms. radius from the head quarter of the Bank and the remaining voters who are residing outside the 25 kms. radius of the head quarter of the Bank. It has been contended that, for the purpose of electing 10 Directors, the eligible voters are those voters who are residing within 25 kms. radius of the head quarter of the Bank and for the remaining elected Directors i.e. 1 in number, can be elected by the voters who are only residing outside the 25 kms. radius from the head quarter of the Bank. It has been thus contended under bye-laws 29(1) and 29(2) two separate constituencies are created i.e. one for the voters within the 25 kms. radius from head quarter and other constituency for members who are residing outside the 25 kms. radius of the head quarter of the Bank. It is contended that the

members eligible to vote are divided in the aforesaid two constituencies and they cannot vote for the Directors unless a Director as per bye-law 29 is standing from their constituency.

2. On plain reading of the bye-laws No.29(1) and 29(2), no such constituencies have been carved out. The only provision under bye-laws No. 29(1) & 29(2) prescribes that the persons are eligible to contest the election as a Director provided residing within the radius of 25 kms. from the head quarter of the Bank for the purpose of 10 seats and one member can be elected even if his residence is outside the 25 kms. radius from the head quarter of the Bank. Additionaly that a person who is seeking to contest election as a director must be a member and having his residence as prescribed in the rules.

3. In my opinion, the provision of bye-laws No. 29(1) & 29(2) only prescribes the person who is eligible to be elected as a Director and for that purpose he must necessarily be a resident of an area as specified under bye-laws 29(1) & 29(2) but when it comes to him being elected, the voters are not restricted from voting even if they are residing outside 25 kms. radius from the head quarter of the Bank. It is because the plain simple

language of the bye-laws makes it clear by using the word "amongst the members of the Bank" which indicates that the person who seeks to be elected as Director from amongst members of the Bank of the said area must be resident as specified under bye-laws No. 29(1) and 29(2). Looking from this angle, the provision of bye-laws No. 29(1), 29(2) and 29(3) carves out three categories of Directors, one residing within the 25 kms. radius from the head quarter of the Bank, the second, Director residing outside the 25 kms. radius from the head quarter of the Bank and the third category of Director from among the reserved category and all the said three categories of the Directors are required to be elected by all members of the bank irrespective of their residence. This position is clear because bye-law further prescribed as under:-

> "All the members of the Bank are entitled to vote all the directors to be elected."

The said sentence of bye-law No.29 makes abundantly clear that the right to vote is vested in all the members and not restricted as contended by the learned counsel for the petitioner vide bye-laws No. 29(1) & 29(2) of the said respondent No.3 Bank.

4. In that view of the matter, I do not find any

substance in the present petition. The petition accordingly fails and dismissed. No order as to costs.

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